Montana Special Education Compliance Monitoring Process



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Technical Assistance guides are developed by the Division of Special Education to provide guidance to schools, parents and advocates regarding eligibility for and the implementation of services to students with disabilities under the Individuals with Disabilities Education Act, the Administrative Rules of Montana and Montana statutes.

The purpose of this document is to provide a description of the compliance monitoring process the Montana Office of Public Instruction implements to ensure that public school districts, state-operated and state-supported programs provide special education and related services in accord with the Individuals with Disabilities Education Act regulations and state laws and rules.

The requirements for the conduct of special education in Montana can be found in Montana's fully approved State Plan. The State Plan is available on the Office of Public Instruction's Web site at:

http://www.opi.mt.gov/SpecEd/StPlan2.html

If you have questions regarding the special education compliance monitoring process after reviewing this guide, please contact the Division of Special Education at (406) 444-5661 or 1-888-231-9393.

You can find an electronic copy of this guide and other resources on our Web site at:

http://www.opi.mt.gov/SpecEd.

Table of Contents

Int	roduction	4
	lecting Districts for Compliance Monitoring	
1.	How are districts selected for compliance monitoring?	4
2.	How are state-operated programs and state-supported programs selected	for
	compliance monitoring?	5
3.	When will a district be informed of a scheduled compliance monitoring?	5
4.	Who will be notified of the scheduled compliance monitoring review?	5
5.	Will monitoring specialists visit individual school buildings and	
	classrooms?	
6.	Where will the monitors review student records?	6
7.	Will it be necessary to hire substitute teachers or otherwise arrange leave	
	time for special education teachers for the day of the monitoring review?	6
Sel	lecting Student Records for Review	6
	How are records chosen for review?	
9.	What is the Students with Unique Concerns form?	6
	. Who are students with unique concerns?	
	. When would the monitor contact a teacher or specialist to discuss	
	records?	7
Vai	lidation	7
	. What information will be contained in the written report received by the	
	district following the compliance review?	
13.	. When is a concern determined to be systemic?	
	. What is a finding of noncompliance?	
	. What is a Corrective Action Plan?	
16.		
17.	-	
18.	. What constitutes evidence of change?	
	. What is a timeline?	
20.	. What is a confidential memorandum?	9
21.	. Is there assistance available for addressing the required action(s)?	9
	. What is technical assistance?	
23.	. How does a district know when it has successfully demonstrated	
	compliance with the corrective action plan?	10
Αp	pendices	12
Ap	pendix 1: Montana's Five-Year Cycle	14
	pendix 2: Students with Unique Concerns Form	

Introduction

As part of its general supervision responsibilities under the Individuals with Disabilities Education Act (IDEA), the Office of Public Instruction (OPI) uses its compliance monitoring procedure to ensure that all children with disabilities receive a free appropriate public education (FAPE) in accord with the Individuals with Disabilities Education Act and Montana statutes and administrative rules. As one step of its compliance monitoring procedures, the OPI reviews individual student records to verify that the district's child find procedures, evaluation and reevaluation processes, and the Individualized Education Programs (IEP) procedures meet Montana's standards. The student record review also addresses procedural safeguards and notices, suspension and expulsion, post-high school transition, least restrictive educational environment and transfer of students from other Montana districts or out of state, as well as the provision of services to parentally enrolled students with disabilities in private schools.

Compliance monitoring activities consist of:

- Review of a sample of student records to examine current practices and documentation;
- Visits to selected schools, when appropriate; and
- Contact with individual teachers and specialists to discuss records selected for review, when appropriate.

Following the OPI compliance monitoring, the OPI staff meet to determine whether the documentation in individual student records met the federal regulations of IDEA and the Administrative Rules of Montana (ARM) governing special education, and to decide whether the district is in full compliance with both federal and state regulations. Following this meeting, the OPI informs the district of the outcome of the compliance monitoring review in a written report. When necessary, the OPI directs districts to take actions necessary to come into compliance in a timely manner.

Selecting Districts for Compliance Monitoring

The OPI meets its federal compliance responsibilities in a number of ways, one of which is regularly scheduled compliance monitoring of local public school districts, state-operated programs, and state-supported programs.

1. How are districts selected for compliance monitoring?

Each district can expect a compliance monitoring review once every five years. Districts that are members of a special education cooperative or consortia will have compliance monitoring in the same year as all other members of the cooperative or consortia. The five-year cycle is based on statewide distribution of public school districts, participation in a special education cooperative or consortia, and district size. Appendix 1 lists all public school districts, special education cooperatives, and multiple-district consortia by each year of the five-year cycle of compliance monitoring.

2. How are state-operated programs and state-supported programs selected for compliance monitoring?

State-operated programs and state-supported programs can expect a compliance monitoring review once every three years. State-operated programs are: the Montana School for the Deaf and Blind, Montana State Prison, Pine Hills Youth Correctional Facility, and Riverside Youth Correctional Facility. State-supported programs are those residential programs that provide special education to children with disabilities under contract with the OPI. Shodair Children's Hospital and Intermountain Children's Home are examples of state-supported programs providing special education. The state-operated programs and state-supported programs are listed in Appendix 1.

3. When will a district be informed of a scheduled compliance monitoring?

The Office of Public Instruction posts the current Compliance Monitoring Schedule on its Web page: http://www.opi.state.mt.us/PDF/SpecED/guides/CompliMontrgPrcs.pdf. Special education administrators will receive a general notice of schools scheduled for compliance monitoring prior to the beginning of the school year. Each district will be notified of the date(s) of the Compliance Monitoring review. A half-day video conference will be conducted each fall for districts, cooperatives, consortia, state-operated programs, and state-supported programs that will be monitored that school year.

4. Who will be notified of the scheduled compliance monitoring review?

The district's superintendent and special education director will receive notice of upcoming compliance monitoring. When a district is a member of a special education cooperative, both the special education cooperative director and the district's responsible school official will receive the notice of upcoming compliance monitoring. In the case of a district that participates in a consortia, the responsible school official of each member district will receive notice of the upcoming compliance monitoring and a copy of the notice will be sent to the administrator of the consortia.

The notice will identify the date of the compliance monitoring and other pertinent information, including the location at which monitors will review student records.

5. Will monitoring specialists visit individual school buildings and classrooms?

The compliance monitoring may or may not include visits to individual school buildings, meetings with individual special education teachers, speech and language pathologists, other special education personnel, general education teachers, or administrators. The OPI will determine whether or not visits occur. If a monitor needs to contact a teacher, a meeting will be scheduled at a time that is convenient for the teacher.

6. Where will the monitors review student records?

The OPI Monitoring Specialist will coordinate with the district's special education director or special education cooperative director, building principal or other administrator to identify a location to conduct the record reviews. Examples may include: classrooms, conference rooms, board rooms, and facilities outside the school.

7. Will it be necessary to hire substitute teachers or otherwise arrange leave time for special education teachers for the day of the monitoring review?

No.

Selecting Student Records for Review

The monitoring specialist will work with the district's special education director or special education cooperative director to prepare for the compliance monitoring review. One aspect of the preparation will be selecting a sample of student records for review. The televideo conference, conducted by the OPI each fall, will discuss the student record review in detail and provide attendees the opportunity to discuss preparatory activities.

8. How are records chosen for review?

The number of student records sampled will be proportional to the number of special education teachers and speech pathologists providing special education and related services in the district. The minimal sample will be twice the number of licensed special education teachers and speech pathologists providing special education and related services in the district. Larger samples would be drawn when the characteristics of the student population and other circumstances within the district require. The monitoring may sample additional records of students for whom there are unique concerns. The district will identify these students using the OPI *Students with Unique Concerns* form. A copy of this form can be found in Appendix 2.

9. What is the Students with Unique Concerns form?

The *Students with Unique Concerns* form identifies students whose needs call for particular attention. The review of these records will identify whether appropriate procedures were implemented when addressing the students with unique concerns. A copy of this form is in Appendix 2.

The form is sent by the OPI to each school district that is scheduled for a compliance monitoring. School district personnel complete the *Students with Unique Concerns* form and return it to the OPI prior to the scheduled monitoring.

10. Who are students with unique concerns?

Students with unique concerns include children with disabilities who, during the current school year, met one of the conditions listed below:

- Transfer students;
- Have surrogate parents;
- Attend private schools;
- Have aversive treatment plans;
- Underwent a manifestation determination review during the school year;
- Have been suspended for more than seven days; or
- Have been expelled;
- Have graduated during the past year;
- Have exited all special education services;
- Were referred from Part C;
- Were found to not be eligible for services under IDEA.

11. When would the monitor contact a teacher or specialist to discuss records?

The monitor may contact the teacher or specialist when further information about the student is needed, the special educator's input is necessary to answer a question from the record, or the monitor wishes to discuss the student or special education services.

Individual teachers and specialists are welcome to contact the monitors during the monitoring visit.

Validation

After the compliance monitoring, the Division of Special Education staff meet in Helena, review the data gathered during the compliance review, discuss the details and prevalence of concerns identified, and if appropriate, determine if there is noncompliance. This meeting includes the Director and, or Assistant Director of the Division of Special Education, one or more specialists with monitoring responsibilities, and often the Early Assistance Program Manager.

If concerns are identified, the staff discuss whether the frequency of concerns identified are *systemic* to the district's special education program. They also discuss isolated instances of noncompliance or other concerns evident in one or more records, if any. In other cases, local practices may not reach the level of a systemic concern nor indicate that a particular student is not receiving FAPE, but suggest that changes in practice may improve outcomes for students.

Following this meeting, the OPI informs the district of the outcomes of the compliance monitoring review in a written report.

12. What information will be contained in the written report received by the district following the compliance review?

The written report may include:

- Strengths in the district's special education services,
- Technical assistance,
- Finding(s) of noncompliance,
- One or more corrective actions to address each finding of noncompliance, and
- Reference to a confidential memorandum, when appropriate.

13. When is a concern determined to be systemic?

A concern is determined to be systemic when a large proportion of record reviews indicate a pattern of noncompliance and that pattern reflects the district's policies and/or procedures governing the delivery of special education. The OPI will address a systemic issue by writing a finding of noncompliance and developing a Corrective Action Plan (CAP) to resolve the compliance issue. Isolated or idiosyncratic instances of noncompliance are not considered to be systemic, but may require intervention through a confidential memorandum to ensure FAPE for a particular child(ren).

14. What is a finding of noncompliance?

Failure to meet regulatory standards is a finding of noncompliance. Each finding of noncompliance cites a specific regulation, either federal or state, identified through a review of individual student records and describes the nature of the noncompliance.

15. What is a Corrective Action Plan?

A Corrective Action Plan (CAP) results from a finding of noncompliance and identifies a systemic issue that requires a change in policy, procedure, or practice to ensure full compliance with the IDEA and Montana laws and rules. A CAP establishes timelines for the district to stop the noncompliant practice, implement policies and procedures to address the concern, implement required actions to produce permanent changes, review student records to demonstrate the effect of intervention, and continue these compliant practices.

16. What does a Corrective Action Plan require?

Each CAP will have these elements: finding of noncompliance, required action, evidence of change, and timelines. In all cases, a corrective action plan requires a response from the district or program to document changes in policy and/or procedure within a clearly defined timeframe.

A corrective action plan requires that the district do the following:

- Modify its policy, procedure, or practice to comply with the regulation cited;
- Inform personnel to ensure that the changes occur and become established practices; and

• Demonstrate that required changes occur in practice, usually by sending copies of Individualized Education Programs (IEP) or Child Study Team (CST) reports to the Division of Special Education for review.

17. What is a required action?

A required action is a description within the CAP of the activities that the district must complete to correct the finding of noncompliance. The OPI will determine and describe the required action.

18. What constitutes evidence of change?

Evidence of change is a description within the CAP of what documentation will verify that the finding of noncompliance has been resolved appropriately.

19. What is a timeline?

Each CAP contains a timeline that states the date by which the evidence of change must be completed and received by the OPI. The timeline takes into account the amount of time necessary to revise policy and/or procedure, secure parent and/or school board approvals as necessary, and deliver training to staff, as well as to demonstrate the results of the change in policy or practice in the CST reports, IEPs and other components of student records.

20. What is a confidential memorandum?

When the Division of Special Education staff determines that an individual student is not receiving FAPE, the OPI addresses that concern with a confidential memorandum. A confidential memorandum is a directive to the district that:

- Contains personally identifiable information regarding one or more students;
- Cites a specific violation of federal or Montana regulations governing the provision of FAPE:
- Requires the district to take specific required actions;
- Defines timelines for completing these actions; and
- Identifies the method for reporting completion of the required actions.

The confidential memorandum directs the district to review and revise, as appropriate, the student's evaluation, CST report, IEP, or other procedure as necessary. The OPI will generally send a confidential memorandum, when necessary, prior to the compliance monitoring report. The memorandum remains confidential because it includes personally identifiable information.

21. Is there assistance available for addressing the required action(s)?

Yes. The district may request assistance from the OPI, Division of Special Education.

22. What is technical assistance?

Technical assistance provides suggestions that may improve the quality of the district's special education services. Technical assistance does not require the district to implement the suggestions.

23. How does a district know when it has successfully demonstrated compliance with the corrective action plan?

After completing the requirements of the corrective action plan, the responsible school official will receive a letter verifying the district's compliance with the issues identified in the monitoring report. The verification letter will be sent from the OPI Director of the Division of Special Education to the district's responsible school official. Copies will be sent to the district's special education director or cooperative director, as appropriate, and the OPI's Accreditation Department.

Appendices

Appendix 1: Montana's Five-Year Cycle

 Public School Districts, State-Operated Programs, and State-Supported Programs

Appendix 2: Students with Unique Concerns Form

Appendix 1: Montana's Five-Year Cycle

Special education cooperatives and consortia (school districts submitting joint applications under Part B) are listed in **bold-face** type. When a district or consortia is identified, it means that all participating members of the cooperative/consortia will be monitored in the same year. Refer to the OPI Web site at http://www.opi.mt.gov/PDF/SpecED/mon/SchedulebyDistrict.pdf for a specific listing of school districts and the year in which they will be monitored.

2006-2007

Big Country Cooperative Butte Public Schools

Central MT Learning Resource Center

Corvallis K-12 Schools

Gallatin/Madison Cooperative

Great Divide Educational Services

Hardin Public Schools

Hellgate Elementary

Lame Deer Public Schools

Sidney Public Schools

Whitefish Public Schools

Wolf Point Public Schools

2007-2008

Ashland Public Schools

Billings Public Schools

Bitterroot Valley Cooperative

Browning Public Schools

Chouteau County Joint Services

Eureka Public Schools

Libby K-12 Schools

Sheridan/Daniels Cooperative

Tri-County Cooperative

2008-2009

Bear Paw Cooperative

Belgrade Public Schools

Bozeman Public Schools

Columbia Falls Public Schools

Lodge Grass Public Schools

Manhattan Public Schools

Missoula County Schools

Poplar Public Schools

Stillwater/Sweet Grass Cooperative

Target Range Elementary

Troy Public Schools

2009-2010

Big Sky SE Cooperative

Colstrip Public Schools

Eastern Yellowstone Cooperative

Evergreen Cooperative

Flathead County Cooperative

Frenchtown K-12 Schools

Glasgow K-12 Schools

Glendive Public Schools

Havre Public Schools

Helena Public Schools

Kalispell Public Schools

Malta K-12 Schools

Missoula Area Cooperative

Park County Cooperative

Wyola Schools

2010-2011

Great Falls Public Schools Miles City Public Schools

North Central Learning Resource Center

Plains Public Schools

Polson Public Schools

Prairie View Cooperative

Prickly Pear Cooperative

Ronan Public Schools

Roose-Valley Cooperative

Sanders County Cooperative

Yellowstone/West Carbon County Coop.

State-Operated or State-Supported Programs (3-Year Cycle)

Children's Comprehensive Services	2008-2009
Intermountain Children's Home	2008-2009
Montana School for the Deaf &Blind	2009-2010
Montana Developmental Center	2007-2008
Montana State Prison	To Be Announced
Pine Hills Youth Correctional Facility	2008-2009
Riverside Youth Correctional Facility	2008-2009
Shodair Children's Hospital	2008-2009
Yellowstone Academy Elementary	2009-2010

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District:			hool Year Monitor:							
TRANSFER STUDENTS										
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Has the district used Yes (If yes, please identi	No	J		•	orevious school year? pages.)					
School Building	Student Name	Initials	Birthdat e	Gender	Special Education Teacher / Speech- Language Pathologist	OPI Use Only				

PRIVATE SCHOOLS										
Does the district currently provide special education and related services to students who are enrolled in private schools, including students who are home schooled? Yes No (If yes, please identify these students below or on additional pages.)										
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School Building	Student Name	Initials	Birthdat e	Gender	Special Education Teacher / Speech- Language Pathologist					
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	fy these students bel	ow or o	on additi	onal p						
School Building	Student Name	Initials	Birthdat e	Gender	Special Education Teacher / Speech- Language Pathologist					

MANIFESTATION DETERMINATION										
Has the district conducted manifestation determination reviews for students with disabilities during the current or previous school year? Yes No (If yes, please identify these students below or on additional pages.)										
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School Building	Student Name	Initials	Birthdat e	Gender	Special Education Teacher / Speech- Language Pathologist					
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School Building	Student Name	Initials	Birthdat e	Gender	Special Education Teacher / Speech- Language Pathologist	OPI Use Only		

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STUDENTS WHO HAVE HAD CST AND IEP MEETINGS DURING THE CURRENT SCHOOL YEAR

Please identify below all students who have had a Child Study Team and/or IEP meeting (annual or initial) during the current school year.

(You do not need to include students who were <u>initially evaluated</u> for special education services in the current school

year and found to be not eligible for services under the IDEA. They are identified on the SWUC form.)

School Building	Student Name	Initials	Birthdate	Gender	Date of CST	Date of IEP	Special Education Teacher / Speech- Language Pathologist	Check here if it was an initial CST/IEP
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